Supreme Court, U.S.
FILED
MAR 6 - 2015
OFFICE OF THE CLERK

Nos. 14-556, 14-562, 14-571 and 14-574

IN THE

Supreme Court of the United States

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL.,
PETITIONERS,

v.

RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., RESPONDENTS.

VALERIA TANCO, ET AL., PETITIONERS,

v.

WILLIAM EDWARD "BILL" HASLAM, GOVERNOR OF TENNESSEE, ET AL., RESPONDENTS.

APRIL DEBOER, ET AL., PETITIONERS,

v.

RICK SNYDER, GOVERNOR OF MICHIGAN, ET AL., RESPONDENTS.

GREGORY BOURKE, ET AL., AND TIMOTHY LOVE, ET AL.,
PETITIONERS,

v.

STEVE BESHEAR, GOVERNOR OF KENTUCKY, ET AL.,
RESPONDENTS.

On Writs of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF OF PFLAG, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

ANDREW J. DAVIS
Counsel of Record
JIYUN CAMERON LEE
FOLGER LEVIN LLP
199 Fremont St., 20th Fl.
San Francisco, CA 94105
(415) 625-1050
ddavis@folgerlevin.com

Counsel for *Amicus Curiae,* PFLAG, Inc.

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

INTERESTS OF AMICUS CURIAE 1

SUMMARY OF ARGUMENT 3

ARGUMENT 4

I. Same-Sex Couples Joining In Marriage Neither Pose Risks To The Institution Of Marriage Nor Threaten Children 4

A. Story of Tom and Jan Harry 5

B. Story of Rita Miller 9

C. Story of Jennifer Curran 11

D. Story of Jodi Martin 15

II. Bans On Same-Sex Marriage Discriminate Against And Harm People Who Are Gay Or Lesbian By Relegating Their Relationships To An Inferior status 20

A. Story of Andrew Gardner-Northrop 21

B. Story of Don and Gena Rogers 25

C. Story of Kathy Halbrooks 29

D. Story of Winston Johnson 31

CONCLUSION 35

TABLE OF AUTHORITIES

CASES

Loving v. Virginia,
388 U.S. 1 (1967) 20

Romer v. Evans, 517 U.S. 620 (1996) 4, 20

United States v. Windsor,
133 S. Ct. 2675 (2013) 21

United States v. Windsor, 133 S. Ct. 2675
(2013) 5

Zablocki v. Redhail,
434 U.S. 374 (1978) 20

RULES

Sup. Ct. Rule 37.6 1

INTERESTS OF *AMICUS CURIAE*[1]

PFLAG, Inc. (formerly known as Parents, Families & Friends of Lesbians & Gays, Inc.) respectfully submits this *amicus curiae* brief in support of Petitioners.

PFLAG is a national, nonprofit organization that promotes the health, well-being, and civil rights of lesbian, gay, bisexual and transgender ("LGBT") persons, as well as their families and friends. Nationwide, PFLAG has more than 200,000 members and supporters, with approximately 385 affiliates. In Kentucky, Michigan, Ohio, and Tennessee, PFLAG has 42 chapters and more than 20,000 members.

PFLAG was founded in 1973 by heterosexual mothers and fathers of gay and lesbian children. The impetus for the founding of the organization was the simple act of one mother, Jeanne Manford. Ms. Manford took the then-unusual step of publicly supporting her gay son by participating in a gay rights march, holding a handmade sign reading "Parents of Gays Unite in Support for our Children." Ms. Manford's role in founding PFLAG was recognized in 2013 when she posthumously received the nation's second-highest civilian honor, the Presidential Citizens Medal.

---

[1] This brief is submitted with the consent of the parties. Respondents have filed with the Clerk of the Court blanket consents to the submission of *amicus curiae* briefs. By letter dated February 27, 2015, Petitioners also granted consent to filing of this brief. Pursuant to Rule 37.6, counsel represents that this brief was not authored in whole or in part by counsel for any party, and no person or entity other than PFLAG and its counsel has made any monetary contribution to the preparation and submission of this brief.

In the 42 years since its founding, PFLAG's support, education, and advocacy efforts have promoted greater acceptance for the LGBT community. PFLAG's activities have included providing support services to LGBT individuals, their families and friends to assist in coping with discrimination and hostility. PFLAG has further engaged in education and advocacy efforts, through which it seeks to create a society in which all citizens enjoy full civil and legal equality and may participate in the rights, privileges and obligations of citizenship.

Today, PFLAG's members and supporters are predominantly heterosexual parents, children, grandparents, siblings, and friends of LGBT individuals who desire that their family members enjoy the same right to marry as heterosexual couples. PFLAG members also include LGBT individuals and same-sex couples who wish to marry.

As the nation's largest and oldest nonprofit organization for family members and friends of LGBT individuals, PFLAG has a strong interest in the right of same-sex couples to marry, and its members are uniquely positioned to address and rebut certain arguments made by Respondents in the proceedings below. In particular, PFLAG and its members have first-hand knowledge of how restrictions on same-sex marriage have negatively impacted not only same-sex couples themselves, but also their family members, including the children of same-sex couples. Further, having witnessed committed same-sex relationships and marriages, PFLAG members can address the suggestion that permitting same-sex marriage somehow poses a risk of adverse consequences to the institution of marriage.

SUMMARY OF ARGUMENT

PFLAG submits that the opinion of the Sixth Circuit Court of Appeals should be reversed for the many reasons set forth in the Brief of Petitioners. This *amicus curiae* brief will offer the perspective of PFLAG's members on just two of the arguments advanced by Respondents in the proceedings below:

1. PFLAG offers personal stories showing that there is no risk to marriages of opposite-sex couples merely because same-sex couples also commit to marriage, and that barring same-sex couples from the commitment of marriage humiliates the children of those couples. As heterosexual family members and friends of gay men and lesbians, PFLAG's members are uniquely situated: they can offer first-hand accounts of how observing gay and lesbian family members in committed relationships and marriages has reaffirmed, rather than harmed, their views on the importance of the institution.

2. PFLAG offers personal stories of its members demonstrating that prohibiting committed same-sex couples from marrying relegates their relationships to an inferior status, felt by them, their families and the wider community to be second class. Those stories illustrate both the profound importance of marriage for these committed couples and their family members, and the harm flowing from this discriminatory exclusion from married family life.

The harm resulting from the state bans on same-sex couples marrying is most directly felt by the same-sex couples themselves, some of whom offer their stories below. But the family members of gay men and lesbians are profoundly affected as well and would be deeply and adversely affected if the decision below were to be affirmed. These prohibitions

tell the family members of gay men and lesbians that their children, grandchildren, siblings, and parents are inferior and that their families are not entitled to equal dignity under the law. As such, these laws cannot be reconciled with the Constitution's guarantees of due process and equal protection.

ARGUMENT

I. SAME-SEX COUPLES JOINING IN MARRIAGE NEITHER POSE RISKS TO THE INSTITUTION OF MARRIAGE NOR THREATEN CHILDREN.

Even under a rational basis analysis,[2] government action that discriminates against a discrete class of individuals cannot survive an equal protection challenge unless the classification "bears a rational relation to some legitimate end." *Romer v. Evans*, 517 U.S. 620, 631 (1996).

PFLAG believes that Respondents' reliance in the proceedings below on supposed risks to the institution of marriage or the commitment of heterosexual parents to their children is entirely misplaced. This specious claim ignores the many children who are currently being raised by same-sex couples, who as the Supreme Court has observed, are being "humiliate[d]" by non-recognition of same-sex marriage, making it "even more difficult for children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives." *United States v. Wind-*

---

[2] PFLAG agrees with Petitioners that the bans on same-sex marriage are subject to heightened scrutiny. However, PFLAG will confine its discussion to responding to arguments regarding application of rational basis review.

sor, 133 S. Ct. 2675, 2694 (2013). This contention also ignores the double standard Michigan, Tennessee, Kentucky and Ohio are imposing, since all four states freely permit marriages between opposite-sex couples who are unable or unwilling to procreate.

PFLAG offers the Court the perspectives not only of same-sex couples, but also of the very demographic group for which the states profess concern: heterosexual family members and close friends of same-sex couples who have witnessed the commitments made by same-sex couples. As the following stories illustrate, observing same-sex couples in committed relationships and marriages brings joy and security to their heterosexual family members, and reaffirms the importance of the institution.

A. Story of Tom and Jan Harry

Tom: I was born and raised in Ohio. Jan and I married in 1971, and have lived and served in Ohio ever since. We are both pastors in the United Methodist Church. For 11 years, we have served two churches together as co-pastors.

Jan: We have two children, our daughter Sonya and our son Chris. Both children are married, but Sonya's marriage is not recognized under the laws of Ohio.

Growing up, Sonya always dreamt of getting married and having two kids. She wanted the whole wedding package: a beautiful white dress, a tiered wedding cake, and a big party with her family and friends. A family friend promised to make a fancy wedding cake for her when the big day came.

Tom: Sonya came out to us as an adult. At the time, she was living at home, having completed her Master's degree and saving money to pay off her educational debts. Jan and I remember the day a little differently than Sonya – we do not recall having a hard time with her news that she is gay, but what Sonya recalls of our reaction is different than what we remember (or have chosen to remember). If we had a hard time in the moment, I think Sonya will agree we came to acceptance quickly.

Jan: What I mainly recall about her coming out is my fear for our daughter. Sonya was just embarking on her career in social services. It was 2000 – our society was even less accepting of lesbians and gays then – and I worried that as a lesbian, Sonya would encounter barriers, even hostility, in her chosen field. There was also her dream of marriage and children – I feared that dream had gone down the tubes.

But Sonya proved us wrong. By 2002, she was in a committed relationship with Alison, and they wanted to affirm their commitment in a ceremony before family and friends. So we put up two big tents in our yard, and Sonya made two beautiful white dresses, one each for herself and Alison. They had a covenant ceremony, adapting the vows that Tom and I had used at our wedding to make them uniquely theirs.

Tom: A colleague of Alison's – who was a retired Catholic priest – led the ceremony, in which not only they, but their friends, spoke. While we were deeply saddened that we could not perform the ceremony as clergy (our Church does not recognize same-sex marriage), it was meaningful for all of us that their ceremony was grounded in their faith. I have always believed that marriage includes God. While the two people make the marriage, there is a sacredness in marriage that transcends them. Sonya and Alison are women of faith, who believe in the sacredness of their commitment. Their ceremony reflected that sacredness.

Sonya and Alison

Jan: Over 100 family and friends came together to celebrate their commitment.

Several gay couples we knew said at the time, "we wish we had lived in a time when we could have done that." Our family friend even made the tiered wedding cake as she had promised Sonya many years ago.

It wasn't all rosy, of course – when some of our neighbors learned the reason for the two big tents in our yard, they said they would go away to avoid exposing their children to the event. But several other neighbors came to us, sharing stories of their brother, their aunt, or another family member who is gay.

Tom: Sonya and Alison are now parents to two boys, fulfilling Sonya's childhood dream of being a mom.

We are fortunate to live just three blocks away from our grandchildren. Having witnessed their journey as parents, we can say, without hesitation, that Sonya and Alison are conscientious and nurturing parents. They volunteer at school, ride bikes and play sports with their kids, and have made thoughtful decisions to select the right schools, as well as to foster the boys' strong connection with their Church. They are doing a beautiful, but also very *ordinary*, job as parents, in the sense that what they do for their children is no different than what any other couple, same-sex or opposite-sex, would want to do for their children.

Jan: We are heartened to see growing acceptance of same-sex couples in our

community. But Ohio's laws still fail to recognize Sonya and Alison as a married couple, despite the fact that in October 2013, they were legally married in New York State. Without equality under the law, we cannot achieve true acceptance. Treating Sonya and Alison differently than opposite sex couples results in a different categorization and treatment of their family. Not only Sonya and Alison, but our grandchildren deserve better than that. We want our grandchildren to be treated as typically delightful children, like all the others in their school or neighborhood. Our grandchildren deserve to know that their family is worthy of the same respect as other families.

B. Story of Rita Miller

I live in Fisherville, Kentucky and have two adult children. Like many parents of gays and lesbians, I support marriage equality for the most intensely personal and yet most ordinary of reasons: I want my daughter, Tonya, to be able to express a life-long commitment to her partner, Annette, and to have that commitment recognized by the State. Equally important, as a grandmother, I want Tonya and Annette's two children to know that the State recognizes their household as a true "family" – a designation that is uniquely conferred in our society by the institution of marriage. Tonya and Annette met in Kentucky in 1999, and have been in a committed relationship ever

since. Over the past six years, they have adopted two children.

Even before they had children, it was evident that Annette and Tonya were deeply committed to each other. But raising children has a way of highlighting what makes a relationship special. In Annette and Tonya's case, I am impressed by the way they communicate with each other to navigate the joys and challenges of parenting. They recognize the give and take, the support, and the good humor that is necessary to sustain a committed relationship. My grandchildren are lucky to have parents who are modeling, through their everyday life, how good relationships work. Above all, Annette and Tonya are amazing parents who emphasize the importance of family, education and discipline. I'm particularly struck by their dinnertime routine: almost every night, the four of them sit down together. One by one, they each describe the best part of the day. It is a simple yet powerful way of connecting with each other as a family.

I find it disheartening that society can embrace committed opposite-sex relationships and yet denigrate Tonya and Annette's relationship. And make no mistake, that is what the State's prohibition on same-sex marriage has done. By refusing to afford Tonya and Annette the right to get married, Kentucky is saying that their family is less worthy, less equal

than other families. Annette and Tonya are just as committed to each other and to their children, and they should be afforded the right to get married.

C. Story of Jennifer Curran

I currently live in Maine, but grew up with two sisters in a close-knit, loving and devoutly religious family in Massachusetts. My father was an ex-Marine for whom there was nothing more important than church and family. Everyone I knew growing up cherished the institution of marriage. My community made it clear that I should settle down, find someone with whom to spend my life, have children, and worship God. To be clear, those values were not crammed down my throat. I shared (and share) them.

In my 20s, I realized that I was gay. It was frightening to me at first because I didn't know if I would be able to find the kind of family life that had been so important to me growing up. But in 1998, at the age of 31, I met and fell in love with Carolyn Thomas. When I was a kid, I conceived of falling in love as feeling a "twinkle" for someone. I had that for Carolyn. But I also had such deep respect for her. She's this incredible professional, who is hardworking, brilliant, and consistent in her treatment of those around her. She is such a good soul and I fell in love with her.

After Carolyn and I began dating, I came out to my parents. I had hoped that it would not be a big deal. After all, I knew my parents loved me. Unfortunately, my parents were not at all supportive. They described being gay as an "abomination" and did not invite me back to their home or have any contact with me for years after I came out.

Carolyn's response to my parents' reaction was one of understanding and selflessness. By this time, I knew that Carolyn was in love with me. But she looked at me and said, "If you can't do this, if you can't be in a relationship with me, I'll stand by you and just be your friend. You do not have to make a choice between me and your parents." It was such a powerful statement of acceptance: at this moment when my family had turned away from me, Carolyn told me that she would love me unconditionally, that she would stand by me even if I made choices that caused her pain. Unconditional love and acceptance are amazing things and I recognized that Carolyn was the person with whom I wanted to form a new family.

Carolyn and I continued to grow together. But for five years, I had no contact with my parents. Then I learned that my Dad was very, very sick with leukemia. At first, I wasn't sure if I could fully reengage with him. But I realized that I either had to forgive him and help, or drop completely out of his life. My faith told

me that I could not turn my back on him. Thankfully, my Dad was also willing to re-start our relationship.

The next few years were very difficult for my Dad – he went through 15-20 surgeries. But he and I again became part of each others' lives. Slowly, my Dad began accepting and even embracing my relationship with Carolyn. In 2005, soon after our reconciliation, he said something like "I know you like Carolyn, but you're never going to be able to marry her." This was something of a thaw from his past views, but hardly an endorsement.

Over the next few years, my father was able to see the relationship that Carolyn and I had created. Above all, he observed us as parents to our amazing daughter, who was born in 2006. He saw us share in the care and nurturing of our daughter. He was able to see us as a family.

Jennifer's father and her daughter.

In 2009, I was with my father soon after the initial efforts to legalize same-sex marriage in Maine failed. He could see that I was very hurt by this defeat. He grabbed my arm and said, "I know marriage is coming to Maine. It's going to happen. I don't know if I'm going to be here to see it. But I want you to know, that I'll be happy for it."

My father died six months later, two years before marriage equality came to Maine. Carolyn and I were married at the courthouse at the earliest possible moment: on December 29, 2012, the first night that same-sex marriages were performed in Maine. Having that wedding ring on my finger has made a tremendous difference in my day-to-day life. It tells everyone that I am in a committed relationship that is worthy of the greatest recognition that civil society can offer. Critically, it also tells our daughter that the State recognizes us a family, and that there is nothing second-class about her parents' commitment.

Carolyn and I also wanted a religious wedding, so ten months after our civil ceremony, Carolyn and I were married in our church. I was able to walk down the aisle to be married in a mainstream church in a service presided over by a straight male priest. It was a sacred and powerful experience, to stand with Carolyn – before our friends, our family, our daughter, and before God – and commit

my life to the person that I love. Nothing could have been better.

Well, almost nothing: my father, of course, was not there to walk me down the aisle. But I know – because he had already told me – that he was happy.

Jennifer's family.

D. Story of Jodi Martin

My fiancé, Jenny, and I raised our 14 year-old daughter in Oklahoma before moving to Colorado in 2012. In Oklahoma, we were not "out" professionally for fear that we would lose our jobs. In addi-

tion, while Jenny, as our daughter's birth mother, had full parental rights in Oklahoma, I had no rights at all and was prohibited from adopting our daughter. After moving to Colorado, I was finally able to legally adopt her. That day – October 17, 2013 – was incredibly emotional and meaningful, even more than I had expected. Our state was finally recognizing my legitimacy as a mother to our daughter. While the legal recognition may not have changed our daily lives, it nonetheless was and is meaningful to know that she is now *my* child in *every* respect, including under the law.

But the state still did not fully recognize our legitimacy as a family. Jenny and I were able to obtain a Civil Union License in 2013, but as of October 2014, we were not able to marry. Marriage is the strongest commitment you can make in this country and we knew we wanted to make that commitment to each other. So, with the lifting of the stay on same-sex marriages in Colorado last fall, Jenny and I began making plans for our wedding. We have chosen October 17, 2015, as the date for our wedding, to coincide with the anniversary of the date when my adoption of our daughter was finalized.

Our daughter has been dreaming about and planning our wedding for years. Here is why she believes Jenny and I should be allowed to marry:

"When I was younger, one of the things that I liked to do with my best friend was to plan my parents' wedding. My best friend and I made lists of people to invite to the wedding. We also talked about who the bridesmaids should be. But we didn't talk as much about where or when the wedding would take place. That is because I have two moms, and they were not allowed to get married in either Oklahoma, the state where I was born and grew up, or in Colorado, the state I moved to three years ago.

I thought it was so unfair that my parents couldn't get married. I can see that they love each other just like my grandparents love each other and just like the straight parents of my friends. I see them hugging each other. I see their togetherness. The way they treat each other with respect, the way they work together as a team. Knowing that my parents were not allowed to get married made me feel like some people didn't believe that we were a real family.

But we are a true family. My two moms are great parents

to me. They always tell me when they are proud of me. I know that I can go to them with any problem. They teach me great lessons about standing up for what you believe in, not giving up, but always being respectful of people who disagree with you.

This past October, my Mom, Jenny, picked me up from school and told me that same-sex marriages were about to start being performed in Colorado! I had been following the court cases about same-sex marriage and I can't tell you how excited and relieved I was to hear the news! Now, I could really begin to plan my parents' wedding, including the date and place.

The wedding will be held outdoors, in the mountains. I am most looking forward to having all of our friends and family come to the wedding to celebrate with us and see my parents exchange their vows.

The date that we chose for the wedding is also important to my family. My parents decided that the wedding would take place on October 17 2015 – two years to the day after Jodi was finally able to

adopt me legally. My adoption was the first step in tying our family together and my parents' wedding will be the final step, so we want to have the wedding on the anniversary of my adoption.

I know that the court case might prevent my parents from getting married. I hope not – because my family is just like everyone else's and my parents deserve the same rights as everyone else. Everyone should be able to marry the person that they love and the gender or race of that person should not matter. This October 17th, I hope I will be able to celebrate the wedding of my parents.

Jodi's family.

* * *

Permitting two individuals to commit their lives to each other in marriage can do no harm to the institution of marriage. In fact, marriage solidifies the bonds of families – both legally and emotionally. Any contention otherwise is nothing more than irrational speculation.

II. BANS ON SAME-SEX MARRIAGE DISCRIMINATE AGAINST AND HARM PEOPLE WHO ARE GAY OR LESBIAN BY RELEGATING THEIR RELATIONSHIPS TO AN INFERIOR STATUS.

By excluding same-sex couples from marriage, Kentucky, Michigan, Ohio, and Tennessee have imposed legal disabilities on people who are gay or lesbian, and demeaned their committed relationships. These bans preclude same-sex couples from participating in what the Supreme Court has described as "the most important relation in life" (*Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (citation omitted)), and one that is "essential to the orderly pursuit of happiness by free men." *Loving v. Virginia*, 388 U.S. 1, 12 (1967).

"[A] bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* government interest." *Romer*, 517 U.S. at 634 (citation and internal quotation marks omitted). Classifications of people who are gay or lesbian that do not "further a proper legislative end" but act "to make them unequal to everyone else" are thus unconstitutional. *Id.* at 635. The Supreme Court has recognized that laws with the "principal purpose and the necessary effect" of "demean[ing]" same-sex couples cannot survive

due process and equal protection challenges. *United States v. Windsor*, 133 S. Ct. at 2695-96.

PFLAG's members have experienced and observed the stigmatizing and demeaning effects of marriage prohibitions on themselves, their children, and other family members. Without being able to describe their relationships as "marriages," same-sex couples cannot fully convey the nature and importance of their life-long commitment. *See Windsor*, 133 S. Ct. at 31 (non-recognition of same-sex marriage makes it difficult for family members "to understand the integrity and closeness of their own family"). PFLAG asks the court to consider the following stories from its members, which underscore the ways in which denying same-sex couples the right to marry harms and dishonors the couples and the families who love them.

A. Story of Andrew Gardner-Northrop

I grew up in the Port Huron area of Michigan. I received an undergraduate degree in social work from Saginaw Valley State University, and received my Master's degree in Clinical Social Work from Michigan State University. Despite my ties to Michigan, I had long planned to leave the state after finishing my education. As a gay man, I believed that I had a better chance of finding happiness and a life-long companion in a region of the country that was more open to LGBT individuals.

My plan to leave Michigan changed, however, when I met Adam Gardner. Adam is a native of Lansing, Michigan and a school teacher. Within months of getting

to know Adam, I realized that I wanted to spend the rest of my life with him. Growing up, there was always a part of me that I felt I had to hide, and I assumed that this would always be the case for me. But Adam allows me to be vulnerable without feeling ashamed. I allow him to see my true self. Early on in our relationship, I realized that I was comfortable holding his hand in public, something that I'm not normally willing to do. It was a powerful moment and I recognized that I was not scared with Adam, and felt fully supported and protected with him.

In 2013, I decided that I wanted to marry Adam, even though same-sex marriage was not legal in Michigan. I picked out a ring, and made plans to propose to him while we vacationed in Arizona. In the late afternoon, on the red rocks outside of Sedona, I pulled out the ring and told Adam, "I know it's not legal, but I'm tired of waiting to ask you to spend the rest of your life with me. Will you marry me?" Thankfully, he said yes.

Although we were now engaged, we had no legal right to get married. In March of 2014, when the District Court for the Eastern District of Michigan issued its ruling prohibiting bans on same-sex marriage, we immediately called our county clerk to see if she would begin issuing marriage licenses to same-sex couples. Unfortunately, she told us that the an-

swer was "no" – and then the stay was granted.

We decided that we would not wait for a court ruling authorizing same-sex marriage in Michigan, and went forward with our wedding last summer. We traveled to Illinois on July 14, 2014 to obtain a marriage license and ensure that our marriage and family was recognized under federal law. We then returned to Freeland, Michigan for a ceremony on August 8, just two days after arguments in this case before the Sixth Circuit.

Our ceremony gave us an opportunity to share our commitment with more than 150 friends and family members. In retrospect, I realized that our ceremony also gave some friends and family members an opportunity to show their support. Adam and I knew that we had the love and support of our immediate family. But with some of my more distant relatives, in particular, I was unsure about their views on same-sex marriage, and whether they would even attend the wedding. But on the day of the wedding it became clear that these family members wanted to be able to express their love for us and their respect for our relationship. I realized that weddings provide a unique opportunity for members of a community to show that kind of support.

Adam and I wrote our own vows. Adam went first, because he knew he couldn't make it through my vows without chok-

ing up. In Adam's vows, he promised to let me see him at his "best and most vulnerable because I need you for both." In my vows, I promised "to love all of you with every part of me. Today I hide nothing because, with you, there is no part of me that you do not accept and love."

Adam and Andrew.

We had hoped that the Sixth Circuit ruling would ensure that our marriage was recognized not only under federal law, but also by our home state. So we were devastated when the decision was issued in November reversing the District Court's ruling. Our commitment to each other cannot be diminished by a law or a court ruling. But we still want the validation and stability that comes from having our marriage recognized by the State of Michigan. Without full legal recognition under State laws, our union will still be deemed

second-class, and somehow "less than" the union between two people of the opposite sex. We plan to have children together, and we want our kids to know that our relationship is a marriage, equal in dignity to relationships between opposite-sex couples. We have the right to know that our State values us as individuals and recognizes us as a family.

B. Story of Don and Gena Rogers

Don: My wife Gena and I have been married 47 years. We live in Texas and have three sons and five grandchildren. Our youngest son, Josh, is gay.

Gena: When Josh was 14, he told the Youth Minister at our church that he thought he was gay. The Youth Minister called me in, and said that he did not think Josh was gay but simply going through a phase. Both he and I basically shut down any effort by Josh to come out. I did not even tell Don about the conversation, and simply ignored it. It was incomprehensible to me. It couldn't be true.

For a few years after that, Josh tried to be straight. He dated girls and tried his best to be someone he wasn't. Then at the age of 19, he came out to Don and me.

Don: I was devastated. I was a fourth-generation Southern Baptist and a fourth-generation Texan. Everything I had known, everything I had been taught, was that homosexuality was a sin and could not be accepted. This was some-

thing that had been ingrained in me, and something I had never questioned. So Josh's declaration that he was gay shook the very foundation of my beliefs.

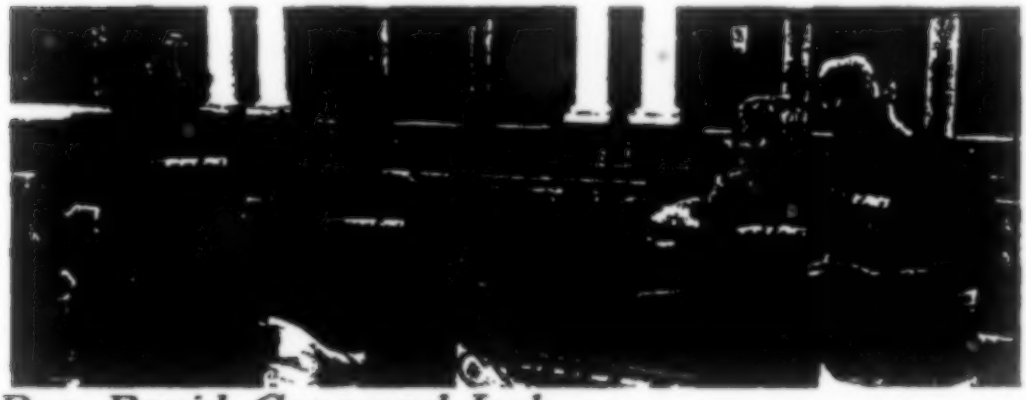
It took a long time for us to assimilate what had happened, and each of us dealt with it in our own way. My way was to turn to research and books. I was a school teacher, having taught for 34 years. So I began reading everything I could, starting with the history of Christianity and homosexuality in the Church. I researched online, and I read books from both perspectives. Ultimately, I realized that I could reconcile my son and my faith. I came to see that Josh was born this way, and he cannot change who he is. Understanding this changed me completely, and it changed the way I look at other people.

Gena: It probably took longer for me to accept that Josh is gay. I grieved hard. I never said "leave," or "I do not love you," but it was incredibly difficult for me. I prayed for a miracle – for God to change Josh so he would not think he was gay anymore.

But then I realized my grieving was about me. It was about *my* grief that Josh would not bring home a daughter-in-law or give me grandchildren. I prayed a lot, and I started to see that God couldn't change Josh, but He could change my heart. I could love Josh for who he is and not for who I wanted him to be.

Don: Looking back, I am stunned by Josh's courage. He had a difficult time growing up because kids bullied him. I suppose we should have known that Josh was gay, but for Gena and me, that was not something we even considered. We were confirmed Southern Baptists, I served as a deacon in a very large church, and Josh himself was raised in that church. But Josh had the courage to be honest with himself about who he is.

Gena: For the past 10 years, Josh has been in a committed relationship with David. When we were first introduced to David, I was still struggling and grieving to accept that my son is gay. I am sure I was probably stand-offish to David for about a year, maybe more. But now, 10 years later, we love David and consider him every bit a part of our family. We are so proud of the two of them, both as individuals and as a couple.



Don, David, Gena and Josh.

In July of last year, Josh and David were married. They first had a ceremony in Fort Worth on a Saturday night, celebrat-

ing with their families and friends. It was an absolutely beautiful ceremony and reception – I never felt more love than I did that night. Josh surprised David by singing "*When You Say You Love Me.*" There was not a dry eye in the place.

Don: After the ceremony, Josh and David flew to New York to make their marriage legal on the following Monday. It is painful to us that Josh and David were not able to lawfully marry in their home State where they were both born and raised.

While Josh and David don't have children now, they want to have children some day. But they can't adopt a child together under our State's laws. And, hospitals do not give same-sex couples the same visitation rights or the right to make treatment decisions as opposite-sex couples.

Gena: The unfairness of our State's refusal to recognize same-sex couples was crystallized for Josh and David when one of their friends died. The young man's parents refused to recognize his same-sex partner; the partner was kicked out of his home and received nothing. Josh said to me, "Please do not ever do that to David." Of course not – I couldn't, and wouldn't, do that. Josh and David are a couple, and their commitment deserves as much respect as Don's and mine.

There is no reason for our State's refusal to recognize Josh and David's marriage, or the marriage of any other same-sex

couple. These laws demean gay men and lesbian women, and falsely tell our youth, many of whom are struggling with their sexual identity, that they are not capable of forming life-long, committed relationships deserving of societal respect. Recognizing Josh and David's marriage will do no harm to anyone else. On the other hand, laws that refuse to recognize Josh and David's marriage harm those young men and women who are struggling with their self-identity, by telling them that they deserve less simply because of how they were born.

I long for the day when same-sex couples can hold hands without being stared at, a day when they will be allowed to get married and adopt children together. Because on that day, I believe there will be fewer young men and women who feel afraid, rejected or lonely. And our society will be that much better for it.

C. Story of Kathy Halbrooks

I am a straight, 62-year-old woman who was born and raised in rural Alabama. I live in Nashville, Tennessee. While I grew up in the Civil Rights era and saw news reports regarding the Civil Rights movement, those events might as well have happened in a different world. I was shielded from such struggles and ignorant of social issues until I decided to go back to college at the age of 35. And it was only when I was in my mid-50s that I became aware of how differently members

of the LGBT community are treated by society and the law, such as the laws denying same-sex couples the right to marry. What is remarkable to me about this differential treatment is that it so profoundly affects LGBT individuals and their families, yet those effects are so deeply personal as to be almost invisible.

A close friend of mine – I will call her Joan – has been in a committed, same-sex relationship with Mary for 20 years. ("Joan" and "Mary" are not their real names.) In every way, Joan and Mary are an ordinary couple: they own a home together, they shop for food at a local store, and they share a mutual love of physical fitness. But at work, Joan does not feel comfortable leaving out pictures of Mary, whom she married in another state in 2013. When a colleague asks about her weekend, she does not feel comfortable answering freely and openly.

In recent years, Joan and Mary both had to deal with their mothers' illnesses. Last year, Mary lost her mother. But Joan was not afforded bereavement leave that is available to other married employees to support her wife and to grieve the loss of a woman who has been an important part of her own life for almost 20 years.

This is unfair. As long as I have known Joan and Mary, I have been aware of how devoted they are to each other. They steadfastly support each other in sickness and in health (as most marriage vows

state), but the laws of Tennessee refuse to recognize their union. I am acutely aware that as a straight woman, if I were to meet a man tomorrow and get married, I could add him to my insurance and get bereavement leave. No one would question my right to get married, even though I am now well past child-bearing age, regardless of whether I had known him for two days or two years.

As someone who herself is not in a successful, committed relationship, couples like Joan and Mary give me hope. It is wonderful to see Joan and Mary, and many other same-sex couples like them, with positive relationships. There is no reason to treat Joan and Mary's committed relationship differently than that of a straight couple.

D. Story of Winston Johnson

I am a 73-year old resident of Atlanta. In 1964, I met Leon Allen. We were in a relationship with each other from that year until Leon's death from Parkinson's disease in 2006. If Leon were still alive, we would have celebrated our 50th anniversary on April 26, 2014.

Although we never doubted our love for one another, during our first decade as a couple, Leon and I did not realize that we could be together for life. We lived in constant fear that our love for each other would be discovered by our friends or our employers, and that we would be rejected

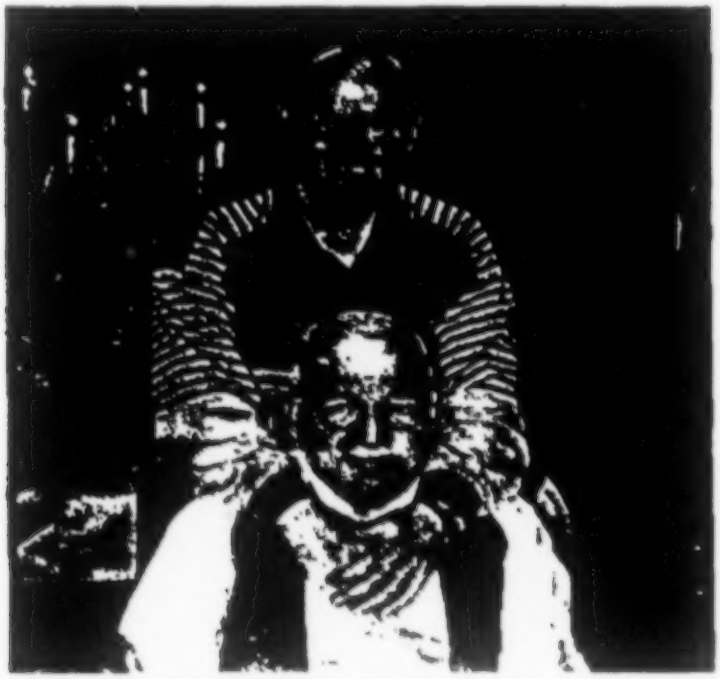
and condemned. We lacked the positive reinforcement from friends and family that comes with getting married. So we hid our love for each other from our friends, colleagues and families – and even a bit from ourselves. And we did not do the sorts of things that young married couples often do, like buying a house or making plans for a life together.

In the 1970s, we realized that our fears were causing us both to hold back emotionally. One night in 1976, I finally asked a question that neither of us had dared ask before, "Are we in this for life?" Leon's response was instantaneous, "Yeah, we are." From this conversion came a significant change. From that day until Leon's death, we considered ourselves to be committed for life. This commitment allowed us to plan our lives and future together. Even more so, it allowed us to be even more emotionally honest with each other and our families. But despite our commitment to each other, we could not be legally married.

In April of 1989, Leon was diagnosed with Parkinson's disease. It was scary to see my spouse suffer from this debilitating illness. But the fear was made worse by the knowledge that our home state did not recognize our relationship with each other. During each of Leon's many hospitalizations, we feared that I would not be allowed to accompany him. Lacking the right to marry, I was forced to tell hospi-

tal staff that I was Leon's "life-partner." Fortunately, the hospitals always permitted me to stay overnight, but our anxieties could have been eliminated altogether if I had simply had the right to say, "I'm Leon's husband."

Leon's condition worsened over time, and I retired when I was 59 years old so that I could take care of him full time. The last six years of his life, Leon was unable to feed himself and required help with all bodily functions. During those years, I took him to hospital three days a week, just so that I could bathe him on a shower bed. Leon was the most gentle and easy person to care for and I am grateful that I was able to care for him until the end. He died in my arms on February 16, 2006.



Winston and Leon.

> The commitment that Leon and I made to each other is in no way inferior to the commitments made by opposite-sex couples that the state chooses to recognize as "marriages." Yet the state denied us the right to marry, and condemned our relationship to an inferior status. The institution of marriage uniquely confers a sense of societal respect and affirmation. Without the right to marry, Leon and I were made to feel like second-class citizens.
>
> It is now too late for me to marry the love of my life. But I hope that, someday soon, same-sex marriages will be recognized fully under the law. Leon and I – like so many other same-sex couples in the past– were denied the right to marry. Going forward, each citizen should be able to make this most important of commitments to the person that he or she loves.

* * *

The purpose and effect of the prohibitions on same-sex marriage is to single-out gays and lesbians for special, inferior treatment, thereby dishonoring and demeaning same-sex couple and their families.

CONCLUSION

For the foregoing reasons, the decision of the Sixth Circuit should be reversed.

Respectfully submitted,

ANDREW J. DAVIS
Counsel of Record
JIYUN CAMERON LEE
FOLGER LEVIN LLP
199 Fremont Street, 20th Floor
San Francisco, CA 94105
(415) 625-1050
ddavis@folgerlevin.com

Counsel for *Amicus Curiae*
PFLAG, Inc.

March 6, 2015